
**DEPARTMENT
PHILOSOPHY**

DHS requires clients to participate in employment and/or family self-sufficiency-related activities and to accept employment when offered. Refugee contractors work with families in removing barriers as well as surmounting challenges and concerns when recipients fail, without good cause, to comply with employment requirements. If these efforts to engage recipients in participation do not succeed, clients must experience the consequences of their decisions and actions.

**DEPARTMENT
POLICY**

The policies in this item apply to failure to comply with work requirements in the Refugee Cash Assistance (RCA).

This item only applies to FAP when the noncompliant person was active for both RCA and FAP on the date of the noncompliance.

Process FAP using policy in BEM 233B when RCA is closed for noncompliance or refusing suitable employment. If the noncompliant person is not a FAP recipient on the date of the RCA noncompliance, no FAP penalty applies.

When a RCA Mandatory Participant (MP) fails without good cause to comply with an employment and/or self-sufficiency-related activity or refuses suitable employment, a member disqualification must be imposed. The refugee contractor works with the family to gain compliance and lift the penalty in the shortest period required.

Both applicants and recipients are penalized for refusing suitable employment. Only RCA recipients are penalized for noncompliance with an employment and/or self-sufficiency-related activity.

Note: Do not apply FAP penalties to RCA-FAP applicants **or** to FAP recipients applying for RCA.

**Noncompliance
with Employment
and/or Self-
Sufficiency-
Related Activities**

As a condition of eligibility WEIs in the eligible group must work or engage in activities leading to employment. Persons failing to do so

are disqualified from the eligible group. Use FIP policy in BEM 228 under Work Eligible Individuals, REQUIRED HOURS OF PARTICIPATION FOR WEIs, and Deferral for Short Term Incapacity in BEM 230A.

Noncompliance with an employment and/or self-sufficiency-related activity means any of the following:

- Failing or refusing to:
 - Comply with activities assigned to the MP on the Refugee Family Self-Sufficiency Plan (RFSSP) as created with the Refugee Contractor (RC).
 - Participate in employment and/or self-sufficiency-related activities.
 - Accept a job referral and/or offer of employment.
 - Register/participate with the RC for employment services.
 - Participate in any arranged job interview or scheduled appointment.
 - Participate in any employability service program which provides job or language training, which is determined to be available and appropriate for the client.
 - Participate in any social service or targeted assistance program if referred and as available in the area in which the refugee resides.
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threats, physical abuse or other behavior disruptive toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

Refusing Suitable Employment

As a condition of eligibility, eligible group members who are MPs cannot refuse suitable employment up to 40 hours per week.

Refusing suitable employment means any of the following:

- Failing or refusing to appear for a job interview; see the exception in this item.
- Refusing a bona fide offer of employment or additional hours up to 40 hours per week, except for certain clients in post-secondary education. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

A bona fide offer of employment means a definite offer paying wages of at least the applicable federal or state minimum wage.

- Voluntarily reducing hours or otherwise reducing earnings.
- Quitting a job.

Exception: This does not include quitting a seasonal job to return to an approved, self-initiated plan for education.

- Firing for misconduct or absenteeism (not for incompetence).

RECORDING A NONCOMPLIANCE OCCURRENCE

When a client has been noncompliant as described above, do the following:

- Complete the noncompliance record by either completing the *Loss of Employment screen* for job quit or voluntarily reducing hours or by entering the noncooperation information on the *Noncooperation Summary screen*. The DHS-2444, Notice of Employment And/Or Self-Sufficiency Related Noncompliance, will be generated upon the next run of EDBC, which will also schedule the triage appointment at the local office and place the client into disqualification pending the negative action period.
- The following information will be populated on the DHS-2444:
 - The name of the noncompliant client.
 - The date of noncompliance.

- All the dates, if addressing more than one incident of noncompliance.
- The reason the client was determined to be noncompliant.
- The disqualification that may be imposed.
- The scheduled triage appointment, to be held in person or by phone, within the negative action period.
- Hold the triage appointment/phone conference to determine good cause prior to the negative action period. Good cause can be based on information already on file with DHS or the RC. If the client does not attend the triage meeting, determine good cause based on the information known at the time of determination. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.

Note: the DHS caseworker must inform the RC case worker, either by phone or email of the triage appointment date and time so they may attend.

- Bridges will automatically apply and track member disqualification penalties based on the data you enter on the Non-Cooperation - Details screen.

GOOD CAUSE FOR NONCOMPLIANCE OR REFUSING EMPLOYMENT

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant MP. A claim of good cause must be verified and documented for applicants, recipients and member adds.

Note: Good Cause - School Attendance in BEM 201 addresses minor parents not attending school.

Record the good cause reason on the Non-Cooperation - Details screen in Bridges by selecting the appropriate description from the Good Cause Reason drop down list. If you have not determined good cause exists, select:

- Determination pending if you are investigating good cause but have not completed the determination.
- None of the above if you have determined the client does not have good cause for non-compliance.

Bridges will automatically apply and track member disqualification penalties based on the data you enter on the Non-Cooperation - Details screen.

Good cause includes the following:

Client Unfit

The client is physically or mentally unfit for the job, as shown by medical evidence or other reliable information.

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

**Reasonable
Accommodation**

The DHS, the RC, or employer fails to make reasonable accommodations for the client's disability or the client's needs related to the disability of a child or spouse.

No Child Care

The client requested child care services (CDC) from DHS or the RC prior to case closure for noncompliance and CDC is needed for a CDC-eligible child, but none is adequate, suitable, affordable and within reasonable distance of the client's home or work site; see BEM 704.

No Transportation

The client requested transportation services from DHS, or the RC prior to case closure and reasonably priced transportation is not available to the client.

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs.

**Unplanned Event
or Factor**

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.

Comparable Work

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

Long Commute

Total commuting time exceeds:

- Two hours per day, **not** including time to and from child care facilities, **or**
- Three hours per day, including time to and from child care facilities.

**PENALTIES FOR
FAILURE TO
COMPLY**

The policies in this section apply to both noncompliance with employment and/or self-sufficiency-related activities and refusing suitable employment. A MP who fails to meet either work requirement is disqualified from the eligible group.

Penalties for noncompliance with employment and/or self-sufficiency-related activities apply to RCA-FAP recipients only. Penalties for refusing employment apply to RCA-FAP recipients and RCA applicants (including work refusals up to 30 days before the application).

Note: A member add is considered an applicant.

**Penalties for
Recipient's
Noncompliance or
Employment
Refusal**

Disqualify a MP who fails without good cause to meet employment requirements by removing the person from the eligible group. See Good Cause for Noncompliance or Refusing Suitable Employment in this item.

Bridges automatically applies disqualification periods as follows:

- For the first failure, a minimum of three months, after which the person must participate to regain eligibility.
- For the second or subsequent failure, a minimum of six months, after which the person must participate to regain eligibility.

Bridges will begin the disqualification effective the first month possible after you certify the eligibility determination for the failure to comply.

**Penalties for
Employment
Refusal - Applicant**

An applicant is ineligible if s/he refuses suitable employment without good cause within 30 days before the application date **or** while the application is pending; see Good Cause for Noncompliance or Refusing Suitable Employment in this item.

Begin RCA benefits no earlier than the pay period following the pay period containing the 30th day after the refusal.

Examples:

1. Client applies October 5 after being fired for absenteeism on September 28. RCA cannot begin until November 1.
2. Client applies October 5 after quitting a job on October 3. RCA cannot begin until November 16.

3. Client applies October 5 and refuses a job on October 18. RCA cannot begin until December 1. Process FAP according to policy outlined in BEM 233B.

Upon certification, Bridges will generate a DHS-1605, Client Notice, explaining benefit denials or reductions.

Penalties for Employment Refusal - Member Add

If a member being added is a mandatory participant and refuses employment (including up to 30 days before the request to be added), add the person's needs no earlier than the first month after the month that includes the 30th day.

Examples:

1. The grantee requests a member add for a mandatory group member October 5. The member was fired for absenteeism on September 7. The member cannot be added to RCA until November 1.
2. The grantee requests a member add October 25 for a mandatory group member. Before the member add is processed, the member being added quits a job on November 3. The member cannot be added to RCA until January 1.

Upon certification, Bridges will generate a DHS-1605, explaining benefit denials or reductions.

Restoring Benefits

In multiple-member RCA groups, after the minimum disqualification period is served, restore RCA benefits effective the first pay period in the month following the minimum disqualification period. For single-member RCA groups follow standard application procedures. Restore FAP benefits according to policy in BEM 233B.

RCA Closure Effects

When RCA closes for reasons unrelated to employment requirements, an ongoing disqualification may or may not be affected.

A three-month or six-month minimum disqualification period that has **not** expired continues during closure if:

- The period expires during the closure, the disqualification ends.
- The period has not expired when the case reopens.

To regain eligibility, the disqualified person must serve the remainder of the period and then comply.

Disqualifications are consecutive (not concurrent), despite case closing and reopening or transfer to a different RCA eligible group. Process FAP according to BEM 233B.

LEGAL BASE

45 CFR 400.82